

1                                    AMENDMENT TO HOUSE BILL 954

2            AMENDMENT NO. \_\_\_\_\_. Amend House Bill 954 by replacing  
3 everything after the enacting clause with the following:

4            "Section 5. The Open Meetings Act is amended by changing  
5 Section 2 as follows:

6            (5 ILCS 120/2) (from Ch. 102, par. 42)

7            Sec. 2. Open meetings.

8            (a) Openness required. All meetings of public bodies  
9 shall be open to the public unless excepted in subsection (c)  
10 and closed in accordance with Section 2a.

11            (b) Construction of exceptions. The exceptions  
12 contained in subsection (c) are in derogation of the  
13 requirement that public bodies meet in the open, and  
14 therefore, the exceptions are to be strictly construed,  
15 extending only to subjects clearly within their scope. The  
16 exceptions authorize but do not require the holding of a  
17 closed meeting to discuss a subject included within an  
18 enumerated exception.

19            (c) Exceptions. A public body may hold closed meetings  
20 to consider the following subjects:

21            (1) The appointment, employment, compensation,  
22 discipline, performance, or dismissal of specific

1 employees of the public body, including hearing testimony  
2 on a complaint lodged against an employee to determine  
3 its validity.

4 (2) Collective negotiating matters between the  
5 public body and its employees or their representatives,  
6 or deliberations concerning salary schedules for one or  
7 more classes of employees.

8 (3) The selection of a person to fill a public  
9 office, as defined in this Act, including a vacancy in a  
10 public office, when the public body is given power to  
11 appoint under law or ordinance, or the discipline,  
12 performance or removal of the occupant of a public  
13 office, when the public body is given power to remove the  
14 occupant under law or ordinance.

15 (4) Evidence or testimony presented in open  
16 hearing, or in closed hearing where specifically  
17 authorized by law, to a quasi-adjudicative body, as  
18 defined in this Act, provided that the body prepares and  
19 makes available for public inspection a written decision  
20 setting forth its determinative reasoning.

21 (5) The purchase or lease of real property for the  
22 use of the public body, including meetings held for the  
23 purpose of discussing whether a particular parcel should  
24 be acquired.

25 (6) The setting of a price for sale or lease of  
26 property owned by the public body.

27 (7) The sale or purchase of securities,  
28 investments, or investment contracts.

29 (8) Security procedures and the use of personnel  
30 and equipment to respond to an actual, a threatened, or a  
31 reasonably potential danger to the safety of employees,  
32 students, staff, the public, or public property.

33 (9) Student disciplinary cases.

34 (10) The placement of individual students in

1 special education programs and other matters relating to  
2 individual students.

3 (11) Litigation, when an action against, affecting  
4 or on behalf of the particular public body has been filed  
5 and is pending before a court or administrative tribunal,  
6 or when the public body finds that an action is probable  
7 or imminent, in which case the basis for the finding  
8 shall be recorded and entered into the minutes of the  
9 closed meeting.

10 (12) The establishment of reserves or settlement of  
11 claims as provided in the Local Governmental and  
12 Governmental Employees Tort Immunity Act, if otherwise  
13 the disposition of a claim or potential claim might be  
14 prejudiced, or the review or discussion of claims, loss  
15 or risk management information, records, data, advice or  
16 communications from or with respect to any insurer of the  
17 public body or any intergovernmental risk management  
18 association or self insurance pool of which the public  
19 body is a member.

20 (13) Conciliation of complaints of discrimination  
21 in the sale or rental of housing, when closed meetings  
22 are authorized by the law or ordinance prescribing fair  
23 housing practices and creating a commission or  
24 administrative agency for their enforcement.

25 (14) Informant sources, the hiring or assignment of  
26 undercover personnel or equipment, or ongoing, prior or  
27 future criminal investigations, when discussed by a  
28 public body with criminal investigatory responsibilities.

29 (15) Professional ethics or performance when  
30 considered by an advisory body appointed to advise a  
31 licensing or regulatory agency on matters germane to the  
32 advisory body's field of competence.

33 (16) Self evaluation, practices and procedures or  
34 professional ethics, when meeting with a representative

1 of a statewide association of which the public body is a  
2 member.

3 (17) The recruitment, credentialing, discipline or  
4 formal peer review of physicians or other health care  
5 professionals for a hospital, or other institution  
6 providing medical care, that is operated by the public  
7 body.

8 (18) Deliberations for decisions of the Prisoner  
9 Review Board.

10 (19) Review or discussion of applications received  
11 under the Experimental Organ Transplantation Procedures  
12 Act.

13 (20) The classification and discussion of matters  
14 classified as confidential or continued confidential by  
15 the State Employees Suggestion Award Board.

16 (21) Discussion of minutes of meetings lawfully  
17 closed under this Act, whether for purposes of approval  
18 by the body of the minutes or semi-annual review of the  
19 minutes as mandated by Section 2.06.

20 (22) Deliberations for decisions of the State  
21 Emergency Medical Services Disciplinary Review Board.

22 (23) The operation by a municipality of a municipal  
23 utility or the operation of a municipal power agency or  
24 municipal natural gas agency when the discussion involves  
25 (i) contracts relating to the purchase, sale, or delivery  
26 of electricity or natural gas or (ii) the results or  
27 conclusions of load forecast studies.

28 (d) Definitions. For purposes of this Section:

29 "Employee" means a person employed by a public body whose  
30 relationship with the public body constitutes an  
31 employer-employee relationship under the usual common law  
32 rules, and who is not an independent contractor.

33 "Public office" means a position created by or under the  
34 Constitution or laws of this State, the occupant of which is

1 charged with the exercise of some portion of the sovereign  
2 power of this State. The term "public office" shall include  
3 members of the public body, but it shall not include  
4 organizational positions filled by members thereof, whether  
5 established by law or by a public body itself, that exist to  
6 assist the body in the conduct of its business.

7 "Quasi-adjudicative body" means an administrative body  
8 charged by law or ordinance with the responsibility to  
9 conduct hearings, receive evidence or testimony and make  
10 determinations based thereon, but does not include local  
11 electoral boards when such bodies are considering petition  
12 challenges.

13 (e) Final action. No final action may be taken at a  
14 closed meeting. Final action shall be preceded by a public  
15 recital of the nature of the matter being considered and  
16 other information that will inform the public of the business  
17 being conducted.

18 (Source: P.A. 90-144, eff. 7-23-97; 91-730, eff. 1-1-01.)

19 Section 10. The Freedom of Information Act is amended by  
20 changing Section 7 as follows:

21 (5 ILCS 140/7) (from Ch. 116, par. 207)

22 Sec. 7. Exemptions.

23 (1) The following shall be exempt from inspection and  
24 copying:

25 (a) Information specifically prohibited from  
26 disclosure by federal or State law or rules and  
27 regulations adopted under federal or State law.

28 (b) Information that, if disclosed, would  
29 constitute a clearly unwarranted invasion of personal  
30 privacy, unless the disclosure is consented to in writing  
31 by the individual subjects of the information. The  
32 disclosure of information that bears on the public duties

1 of public employees and officials shall not be considered  
2 an invasion of personal privacy. Information exempted  
3 under this subsection (b) shall include but is not  
4 limited to:

5 (i) files and personal information maintained  
6 with respect to clients, patients, residents,  
7 students or other individuals receiving social,  
8 medical, educational, vocational, financial,  
9 supervisory or custodial care or services directly  
10 or indirectly from federal agencies or public  
11 bodies;

12 (ii) personnel files and personal information  
13 maintained with respect to employees, appointees or  
14 elected officials of any public body or applicants  
15 for those positions;

16 (iii) files and personal information  
17 maintained with respect to any applicant, registrant  
18 or licensee by any public body cooperating with or  
19 engaged in professional or occupational  
20 registration, licensure or discipline;

21 (iv) information required of any taxpayer in  
22 connection with the assessment or collection of any  
23 tax unless disclosure is otherwise required by State  
24 statute; and

25 (v) information revealing the identity of  
26 persons who file complaints with or provide  
27 information to administrative, investigative, law  
28 enforcement or penal agencies; provided, however,  
29 that identification of witnesses to traffic  
30 accidents, traffic accident reports, and rescue  
31 reports may be provided by agencies of local  
32 government, except in a case for which a criminal  
33 investigation is ongoing, without constituting a  
34 clearly unwarranted per se invasion of personal

1           privacy under this subsection.

2           (c) Records compiled by any public body for  
3 administrative enforcement proceedings and any law  
4 enforcement or correctional agency for law enforcement  
5 purposes or for internal matters of a public body, but  
6 only to the extent that disclosure would:

7           (i) interfere with pending or actually and  
8 reasonably contemplated law enforcement proceedings  
9 conducted by any law enforcement or correctional  
10 agency;

11           (ii) interfere with pending administrative  
12 enforcement proceedings conducted by any public  
13 body;

14           (iii) deprive a person of a fair trial or an  
15 impartial hearing;

16           (iv) unavoidably disclose the identity of a  
17 confidential source or confidential information  
18 furnished only by the confidential source;

19           (v) disclose unique or specialized  
20 investigative techniques other than those generally  
21 used and known or disclose internal documents of  
22 correctional agencies related to detection,  
23 observation or investigation of incidents of crime  
24 or misconduct;

25           (vi) constitute an invasion of personal  
26 privacy under subsection (b) of this Section;

27           (vii) endanger the life or physical safety of  
28 law enforcement personnel or any other person; or

29           (viii) obstruct an ongoing criminal  
30 investigation.

31           (d) Criminal history record information maintained  
32 by State or local criminal justice agencies, except the  
33 following which shall be open for public inspection and  
34 copying:

1 (i) chronologically maintained arrest  
2 information, such as traditional arrest logs or  
3 blotters;

4 (ii) the name of a person in the custody of a  
5 law enforcement agency and the charges for which  
6 that person is being held;

7 (iii) court records that are public;

8 (iv) records that are otherwise available  
9 under State or local law; or

10 (v) records in which the requesting party is  
11 the individual identified, except as provided under  
12 part (vii) of paragraph (c) of subsection (1) of  
13 this Section.

14 "Criminal history record information" means data  
15 identifiable to an individual and consisting of  
16 descriptions or notations of arrests, detentions,  
17 indictments, informations, pre-trial proceedings, trials,  
18 or other formal events in the criminal justice system or  
19 descriptions or notations of criminal charges (including  
20 criminal violations of local municipal ordinances) and  
21 the nature of any disposition arising therefrom,  
22 including sentencing, court or correctional supervision,  
23 rehabilitation and release. The term does not apply to  
24 statistical records and reports in which individuals are  
25 not identified and from which their identities are not  
26 ascertainable, or to information that is for criminal  
27 investigative or intelligence purposes.

28 (e) Records that relate to or affect the security  
29 of correctional institutions and detention facilities.

30 (f) Preliminary drafts, notes, recommendations,  
31 memoranda and other records in which opinions are  
32 expressed, or policies or actions are formulated, except  
33 that a specific record or relevant portion of a record  
34 shall not be exempt when the record is publicly cited and

1 identified by the head of the public body. The exemption  
2 provided in this paragraph (f) extends to all those  
3 records of officers and agencies of the General Assembly  
4 that pertain to the preparation of legislative documents.

5 (g) Trade secrets and commercial or financial  
6 information obtained from a person or business where the  
7 trade secrets or information are proprietary, privileged  
8 or confidential, or where disclosure of the trade secrets  
9 or information may cause competitive harm, including all  
10 information determined to be confidential under Section  
11 4002 of the Technology Advancement and Development Act.  
12 Nothing contained in this paragraph (g) shall be  
13 construed to prevent a person or business from consenting  
14 to disclosure.

15 (h) Proposals and bids for any contract, grant, or  
16 agreement, including information which if it were  
17 disclosed would frustrate procurement or give an  
18 advantage to any person proposing to enter into a  
19 contractor agreement with the body, until an award or  
20 final selection is made. Information prepared by or for  
21 the body in preparation of a bid solicitation shall be  
22 exempt until an award or final selection is made.

23 (i) Valuable formulae, computer geographic systems,  
24 designs, drawings and research data obtained or produced  
25 by any public body when disclosure could reasonably be  
26 expected to produce private gain or public loss.

27 (j) Test questions, scoring keys and other  
28 examination data used to administer an academic  
29 examination or determined the qualifications of an  
30 applicant for a license or employment.

31 (k) Architects' plans, and engineers' technical  
32 submissions, and other construction related technical  
33 documents for projects not constructed or developed in  
34 whole or in part with public funds and the same for

1 projects constructed or developed with public funds, but  
2 only to the extent that disclosure would compromise  
3 security.

4 (l) Library circulation and order records  
5 identifying library users with specific materials.

6 (m) Minutes of meetings of public bodies closed to  
7 the public as provided in the Open Meetings Act until the  
8 public body makes the minutes available to the public  
9 under Section 2.06 of the Open Meetings Act.

10 (n) Communications between a public body and an  
11 attorney or auditor representing the public body that  
12 would not be subject to discovery in litigation, and  
13 materials prepared or compiled by or for a public body in  
14 anticipation of a criminal, civil or administrative  
15 proceeding upon the request of an attorney advising the  
16 public body, and materials prepared or compiled with  
17 respect to internal audits of public bodies.

18 (o) Information received by a primary or secondary  
19 school, college or university under its procedures for  
20 the evaluation of faculty members by their academic  
21 peers.

22 (p) Administrative or technical information  
23 associated with automated data processing operations,  
24 including but not limited to software, operating  
25 protocols, computer program abstracts, file layouts,  
26 source listings, object modules, load modules, user  
27 guides, documentation pertaining to all logical and  
28 physical design of computerized systems, employee  
29 manuals, and any other information that, if disclosed,  
30 would jeopardize the security of the system or its data  
31 or the security of materials exempt under this Section.

32 (q) Documents or materials relating to collective  
33 negotiating matters between public bodies and their  
34 employees or representatives, except that any final

1 contract or agreement shall be subject to inspection and  
2 copying.

3 (r) Drafts, notes, recommendations and memoranda  
4 pertaining to the financing and marketing transactions of  
5 the public body. The records of ownership, registration,  
6 transfer, and exchange of municipal debt obligations, and  
7 of persons to whom payment with respect to these  
8 obligations is made.

9 (s) The records, documents and information relating  
10 to real estate purchase negotiations until those  
11 negotiations have been completed or otherwise terminated.  
12 With regard to a parcel involved in a pending or actually  
13 and reasonably contemplated eminent domain proceeding  
14 under Article VII of the Code of Civil Procedure,  
15 records, documents and information relating to that  
16 parcel shall be exempt except as may be allowed under  
17 discovery rules adopted by the Illinois Supreme Court.  
18 The records, documents and information relating to a real  
19 estate sale shall be exempt until a sale is consummated.

20 (t) Any and all proprietary information and records  
21 related to the operation of an intergovernmental risk  
22 management association or self-insurance pool or jointly  
23 self-administered health and accident cooperative or  
24 pool.

25 (u) Information concerning a university's  
26 adjudication of student or employee grievance or  
27 disciplinary cases, to the extent that disclosure would  
28 reveal the identity of the student or employee and  
29 information concerning any public body's adjudication of  
30 student or employee grievances or disciplinary cases,  
31 except for the final outcome of the cases.

32 (v) Course materials or research materials used by  
33 faculty members.

34 (w) Information related solely to the internal

1 personnel rules and practices of a public body.

2 (x) Information contained in or related to  
3 examination, operating, or condition reports prepared by,  
4 on behalf of, or for the use of a public body responsible  
5 for the regulation or supervision of financial  
6 institutions or insurance companies, unless disclosure is  
7 otherwise required by State law.

8 (y) Information the disclosure of which is  
9 restricted under Section 5-108 of the Public Utilities  
10 Act.

11 (z) Manuals or instruction to staff that relate to  
12 establishment or collection of liability for any State  
13 tax or that relate to investigations by a public body to  
14 determine violation of any criminal law.

15 (aa) Applications, related documents, and medical  
16 records received by the Experimental Organ  
17 Transplantation Procedures Board and any and all  
18 documents or other records prepared by the Experimental  
19 Organ Transplantation Procedures Board or its staff  
20 relating to applications it has received.

21 (bb) Insurance or self insurance (including any  
22 intergovernmental risk management association or self  
23 insurance pool) claims, loss or risk management  
24 information, records, data, advice or communications.

25 (cc) Information and records held by the Department  
26 of Public Health and its authorized representatives  
27 relating to known or suspected cases of sexually  
28 transmissible disease or any information the disclosure  
29 of which is restricted under the Illinois Sexually  
30 Transmissible Disease Control Act.

31 (dd) Information the disclosure of which is  
32 exempted under Section 30 of the Radon Industry Licensing  
33 Act.

34 (ee) Firm performance evaluations under Section 55

1 of the Architectural, Engineering, and Land Surveying  
2 Qualifications Based Selection Act.

3 (ff) Security portions of system safety program  
4 plans, investigation reports, surveys, schedules, lists,  
5 data, or information compiled, collected, or prepared by  
6 or for the Regional Transportation Authority under  
7 Section 2.11 of the Regional Transportation Authority Act  
8 or the St. Clair County Transit District under the  
9 Bi-State Transit Safety Act.

10 (gg) Information the disclosure of which is  
11 restricted and exempted under Section 50 of the Illinois  
12 Prepaid Tuition Act.

13 (hh) Information the disclosure of which is  
14 exempted under Section 80 of the State Gift Ban Act.

15 (ii) Beginning July 1, 1999, information that would  
16 disclose or might lead to the disclosure of secret or  
17 confidential information, codes, algorithms, programs, or  
18 private keys intended to be used to create electronic or  
19 digital signatures under the Electronic Commerce Security  
20 Act.

21 (jj) Information contained in a local emergency  
22 energy plan submitted to a municipality in accordance  
23 with a local emergency energy plan ordinance that is  
24 adopted under Section 11-21.5-5 of the Illinois Municipal  
25 Code.

26 (kk) Information and data concerning the  
27 distribution of surcharge moneys collected and remitted  
28 by wireless carriers under the Wireless Emergency  
29 Telephone Safety Act.

30 (ll) Vulnerability assessments, security measures,  
31 and response policies or plans that are designed to  
32 identify, prevent, or respond to potential attacks upon a  
33 community's population or systems, facilities, or  
34 installations, the destruction or contamination of which

1 would constitute a clear and present danger to the health  
2 or safety of the community, but only to the extent that  
3 disclosure could reasonably be expected to jeopardize the  
4 effectiveness of the measures or the safety of the  
5 personnel who implement them or the public. Information  
6 exempt under this item may include such things as details  
7 pertaining to the mobilization or deployment of personnel  
8 or equipment, to the operation of communication systems  
9 or protocols, or to tactical operations.

10 (mm) Maps and other records regarding the location  
11 or security of a utility's generation, transmission,  
12 distribution, storage, gathering, treatment, or switching  
13 facilities.

14 (2) This Section does not authorize withholding of  
15 information or limit the availability of records to the  
16 public, except as stated in this Section or otherwise  
17 provided in this Act.

18 (Source: P.A. 91-137, eff. 7-16-99; 91-357, eff. 7-29-99;  
19 91-660, eff. 12-22-99; 92-16, eff. 6-28-01; 92-241, eff.  
20 8-3-01; 92-281, eff. 8-7-01; 92-645, eff. 7-11-02; 92-651,  
21 eff. 7-11-02.)

22 Section 99. Effective date. This Act takes effect upon  
23 becoming law."